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Office of the Assistant Fiscal Secretary
U.S. Department of the Treasury
Room 2112
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

**Re: Comment on Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers**

These comments respond to the Advanced Notice of Proposed Rule Making published at 64 Fed. Reg. 1149 - 1152 (January 8, 1999). Consumers Union[1] is the nonprofit publisher of *Consumer Reports* magazine. We have long been concerned with consumer interests in financial services. Consumers Union appreciates the opportunity to comment on the potential arrangements established between payment service providers and federally insured financial institutions as they pertain to electronic funds transfer.

Federally insured financial institutions will be prohibited by Treasury's Financial Agency Agreement from entering into arrangements with nondepository payment service providers to provide access to ETAs. Consumers Union commends this decision as it will serve our long-standing goal of transitioning unbanked, low-income consumers away from high-cost nondepository "alternative" institutions and into the mainstream banking system.

Because the Financial Agency Agreement only prohibits arrangements for ETAs, financial institutions have made arrangements with payment service providers to provide access for non-ETA accounts. Federal payments deposited into non-ETA accounts at financial institutions could be accessed from payment service providers. Treasury is currently seeking comment on the possible regulation of these arrangements. We commend Treasury's recognition of the potential problems arising from such arrangements and need for public discourse on the matter. Consumers Union recommends that Treasury prohibit such arrangements between federally insured financial institutions and payment service providers as they pertain to electronic funds transfer.

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[1] Consumers Union, publisher of *Consumer Reports*, is an independent, nonprofit testing and information organization, serving only the consumer. We are a comprehensive source of unbiased advice about products and service, personal finance, health, nutrition, and other consumer concerns. Since 1936, our mission has been to test products, inform the public, and protect consumers.

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Consumers Union recognizes that there are neighborhoods with no or too few banks. We agree that more access is needed and that banks must both expand their presence and find alternatives in order for recipients of federal benefits to access their accounts. These alternatives might include government, community based and nonprofit organizations or other entities that are not for-profit industries.

Because of such practices as payday loans and high fees, Treasury should seek alternatives other than payment service providers to fill the void when banks are not accessible for the delivery of federal benefits.

*The High Fees of Payment Service Providers*

Payment service providers such as pawnshops, check cashers and money transmitters are notorious for charging exorbitant rates for financial services. Under the guise of offering services to segments of the population traditionally excluded by the banking industry and thereby allegedly incurring risks and higher costs, the industry has consistently charged fees well in excess of average banking fees. Some specific examples highlight this phenomenon:

- A Consumer Federation of America study found that the annual cost of cashing a \$320 weekly paycheck at check cashing centers is \$374.50 with a range from \$160 to \$960.[2]

- The Massachusetts Division of Banks found that the cost of cashing a check at a store is 3.3 to 40.8 times higher than holding a bank checking account. An individual with an annual salary of \$26,000, who cashes paychecks at a store, pays \$648.60 a year in fees, while the average cost of a basic bank checking account is \$36 per year.[3]

- A September 17, 1998 Cox News Service article stated that the average value of checks cashed is \$306 with an average fee per check of 2%[4] resulting in an average fee of \$6.12.

The projected fees for providing access to federal benefits through payment service providers as noted in a recent deal between the National Check Cashers Association and Citicorp further demonstrates the negative consequences of allowing such arrangements. According to a January 19, 1999 article in the *American Banker* recipients of federal benefits will pay maintenance fees of \$3 to \$6 per month in addition to transaction fees of \$1 to \$2 for ATM and POS transactions. Recipients will also be subject to surcharges

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[2] Fox, Jean Ann, *The High Cost of "Banking" at the Corner Check Casher: Check Cashing Outlet Fees and Payday Loans*, Consumer Federation of America, Washington DC, August 1997.
[3] Commonwealth of Massachusetts Division of Banks, *Second Annual Study on the Costs of Utilizing Massachusetts Licensed Check Cashers*, March, 1999.
[4] Cox News Service, "The Check-cashing industry relies heavily on what are called "unbanked" customers," September 17, 1998.

imposed by the owner of the ATM or POS.[5] Charging such high fees for individuals on limited budgets to access their federal benefits interferes with a key purpose of those benefits, income support.

According U.S. Treasury data, the mean income of recipients without bank accounts is $14,000, while recipients with an account have a mean income of $26,000.[6] Given the data presented above regarding the difference in costs of financial services through federally insured financial institutions versus payment service providers, this fee structure is inherently regressive. Low-income individuals pay the high fees at payment service providers while others have access to lower fees offered at federally insured financial institutions.

If arrangements between federally insured financial institutions and payment service providers for the delivery of federal benefits are allowed and unregulated, lower income individuals will pay greater fees for services than those with bank accounts. This directly contradicts the intent of the Treasury in establishing electronic deposit for federal benefits, that individuals access these funds at reasonable costs.[7]

*Practices of Payment Service Providers such as Payday Loans*

A second reason that Consumers Union recommends that Treasury prohibit arrangements between financial institutions and payment service providers for access to federal benefits is business practices such as "payday loans." Payday loans are small, short-term loans made by check cashers at extremely high interest rates ranging from 200% to nearly 1,000% APR. This transaction is inherently deceptive because while claiming to aid consumers in financial emergencies, payday loans often serve as a catalyst in debt treadmills sometimes resulting in bankruptcy. By writing a post-dated check, consumers frequently find themselves short on funds at the next payday and are required to take out subsequent loans to meet expenses. One report indicated that the typical payday loan borrower makes an average of eleven such loans per year.[8] Such high-cost debt transactions lead desperate borrowers to a greater debt burden.

Allowing arrangements between payment service providers and financial institutions for access to federal benefits creates greater opportunity for recipients of federal benefits to become subject to transactions such as payday loans.

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[5] Keenan, Charles, "Citi to Issue Debit Cards Through Check Cashers," *American Banker*, January 19, 1999.
[6] Hawke, John D., Undersecretary of the Treasury, Questions From House Committee on Banking and Financial Services, Reference to April 1997 "Mandatory EFT Demographic Study", United States Treasury.
[7] *Debt Collection Improvement Act,* Section 31001(X) (Amendment to 31 U.S.C. 3332).
[8] Anderson, Mark, "Cash poor, choice rich," *Sacramento Business Journal*, January 11, 1999.